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BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION

(PUBLIC UTILITY)

Springfield, Illinois
Wednesday, February 24, 2010

Met, pursuant to notice, at 10:30 a.m. in
Room A, Leland Building, 527 East Capitol Avenue,
Springfield, Illinois.

PRESENT:

- MR. MANUEL FLORES, Chairman
- MS. LULA M. FORD, Commissioner
- MS. ERIN M. O'CONNELL-DIAZ, Commissioner
(Via teleconference)
- MR. SHERMAN J. ELLIOTT, Commissioner
- MR. JOHN T. COLGAN, Commissioner

SULLIVAN REPORTING COMPANY, by
Carla J. Boehl, Reporter
CSR #084-002710

1 PROCEEDINGS

2 (Whereupon the meeting
3 turned to Public Utility
4 matters.)

5 CHAIRMAN FLORES: We are holding Item G-1.

6 Electricity, Item E-1 (10-0131,
7 10-0132, 10-0133, 10-0134, 10-0135, 10-0136, 10-0137)
8 is an Order initiating the annual coal tar
9 reconciliation. Staff recommends entering the Order.
10 Is there a motion to enter the Order?

11 COMMISSIONER O'CONNELL-DIAZ: So moved.

12 CHAIRMAN FLORES: Is there a second?

13 COMMISSIONER COLGAN: Second.

14 CHAIRMAN FLORES: It's been moved and seconded.
15 Let's please take the roll. Commissioner Ford?

16 COMMISSIONER FORD: Aye.

17 CHAIRMAN FLORES: Commissioner O'Connell-Diaz?

18 COMMISSIONER O'CONNELL-DIAZ: Aye.

19 CHAIRMAN FLORES: Commissioner Elliott?

20 COMMISSIONER ELLIOTT: Aye.

21 CHAIRMAN FLORES: Commissioner Colgan?

22 COMMISSIONER COLGAN: Aye.

1 CHAIRMAN FLORES: I am Chairman Flores voting
2 aye. The vote is 5-0; the Order is entered. We will
3 use this 5-0 roll call vote for the remainder of the
4 agenda unless otherwise noted.

5 Item E-2 (ERM#005) is a filing by
6 Commonwealth Edison Company tariff sheets to revise
7 language in its Rider AMP-CA. Staff recommends not
8 spending the filing.

9 Is there any discussion? Any
10 objections? Hearing none, the filing will not be
11 suspended.

12 Item E-3 (ERM#011) is a tariff filing
13 by Commonwealth Edison Company to supplement or,
14 excuse me, to implement uniform consolidated billing
15 and purchase of receivables. Staff recommends
16 entering the Suspension Order initiating hearing
17 proceedings.

18 Is there any discussion?

19 COMMISSIONER O'CONNELL-DIAZ: I would just like
20 to thank Staff for working on this issue. This will
21 promote the development of market choices for our
22 customers, and I know that it's been an issue that

1 has been floating around for several years and it is
2 good to see that we are finally getting to conclusion
3 of it and moving forward. So I would like to thank
4 Staff for that.

5 CHAIRMAN FLORES: Any other comments? Very
6 well. Thank you, Commissioners.

7 Any objections? Hearing none, the
8 Suspension Order is entered.

9 Item E-4 is Docket 09-0578. This is a
10 Corrected Order correcting the applicant's name in
11 the Order entered on February 10, 2010.
12 Administrative Law Judge Yoder recommends entering
13 the Corrected Order.

14 Is there any discussion? Any
15 objections? Hearing none, the Corrected Order is
16 entered. That concludes the Electricity portion of
17 today's agenda.

18 Turning to the Natural Gas, Item G-1
19 is being held. Items G-2 (08-0365), G-3 (09-0323),
20 G-4 (09-0371), G-6 (09-0453) and G-7 (09-0483) will
21 be taken together. These are complaints by various
22 parties against Northern Illinois Gas Company or

1 Peoples Gas Light and Coke Company. The parties have
2 settled and filed joint stipulations to dismiss. The
3 Administrative Law Judges recommend dismissing these
4 complaints with prejudice.

5 Is there any discussion? Any
6 objections? Hearing none, the complaints are
7 dismissed with prejudice.

8 Item G-5 is Docket 09-0406. This is a
9 petition by Atmos Energy Corporation to abandon
10 service to four customers in Fayette County. Atmos
11 has moved to withdraw the petition. Administrative
12 Law Judge Yoder recommends entering the Order
13 granting the motion to withdraw.

14 Is there any discussion? Any
15 objections? Hearing none, the Order is entered.

16 That concludes the Natural Gas portion
17 of the agenda.

18 Telecommunications, Items T-1
19 (TRM#537) and T-2 (TRM-583) will be taken together.
20 These are tariff filings by Illinois Bell Telephone
21 Company to change competitive services. Staff
22 recommends that the filings not be investigated.

1 Is there any discussion? Any
2 objections? Hearing none, the filings will not be
3 investigated.

4 Items T-3 (TRM#628) and T-4 (TRM#629)
5 will be taken together. These are filings by Verizon
6 North Incorporated and Verizon South Incorporated to
7 remove tariff language inadvertently added in a
8 previous filing. Staff recommends not investigating
9 the filings.

10 Is there any discussion? Any
11 objections? Hearing none, the filings will not be
12 investigated.

13 Items T-5 through T-9 (09-0279,
14 09-0333, 09-0334, 09-0454, 09-0596) will be taken
15 together. Several telecommunication providers seek
16 authority pursuant to Section 13-403 and/or Section
17 13-404 of the Act to provide various
18 telecommunication services. Administrative Law
19 Judges recommend entering Orders granting the
20 requested authority.

21 Is there any discussion?

22 COMMISSIONER COLGAN: Mr. Chairman, there was a

1 similar situation we asked about, I think, at our
2 last bench session, to see if there had been any
3 check to see if complaints had been filed against
4 companies like this in other states kind of in light
5 of some issues that we have before us right now with
6 another case. And I had a question as to where we
7 were in terms of that process becoming a routine
8 matter of history.

9 JUDGE WALLACE: These are -- just so you are
10 aware that what you were talking about at the last
11 meeting was the ABC certificates, and we have
12 instituted a procedure where we are sending out an
13 ALJ ruling requesting from the applicants that
14 information, if they have received complaints or if
15 they are the subject of complaints in other
16 jurisdictions.

17 These are telephone certificates and,
18 unless I am greatly mistaken, we have always asked on
19 the application if the telephone CLECs have
20 complaints in other jurisdictions.

21 COMMISSIONER COLGAN: Okay. That's a part of
22 the process at telco, which wasn't evident in the

1 others. All right then. So it has already been
2 dealt with.

3 JUDGE WALLACE: Well, hopefully.

4 COMMISSIONER COLGAN: All right. Thank you.

5 CHAIRMAN FLORES: And I am assuming we did not
6 find any issues in the evaluation of these
7 applications?

8 JUDGE WALLACE: If they weren't mentioned, then
9 we usually -- well, there are two responses: Do you
10 have complaints, no; do you have complaints, have
11 they been resolved. And if they have been resolved,
12 then we usually move on. It depends on the number of
13 unresolved complaints that we might have from another
14 jurisdiction that might take more investigation. But
15 I am thinking that all these were resolved. Either
16 there were no complaints or they were all resolved,
17 old complaints.

18 COMMISSIONER COLGAN: That's fine. Thank you.

19 CHAIRMAN FLORES: Any other questions per the
20 discussion? Very well. Any objections? Hearing
21 none, the Orders are entered.

22 Items T-10 through T-12 (09-0415,

1 09-0416, 09-0417) will be taken together. These are
2 citation proceedings to revoke certificates for
3 parties for failure to maintain the corporate status.
4 The Administrative Law Judges recommend entering the
5 Orders and revoking the certificates.

6 Is there any discussion? Any
7 objections? Hearing none, the Orders are entered.

8 T-13 is Docket 09-0567. Illinois
9 Consolidated Telephone Company has petitioned
10 pursuant to Section 7-102 (8)(c) of the Public
11 Utilities Act to enter a lease agreement with Verizon
12 Wireless. There are no contested issues.
13 Administrative Law Judge Riley recommends entering
14 the Order granting the petition.

15 Is there any discussion? Any
16 objections? Hearing none, the Order is entered.

17 Items T-14 through T-19 (10-0015,
18 10-0016, 10-0017, 10-0018, 10-0019, 10-0020) will be
19 taken together. These are petitions for emergency
20 relief to protect from disclosure petitioners' 2009
21 annual reports for not less than five years. The
22 Administrative Law Judges recommend entering the

1 Orders granting the petitions but for only two years.

2 Is there any discussion?

3 Could we just have again -- just
4 inform the Commissioners here the purpose or the
5 reason for only the two years recommendation?

6 JUDGE WALLACE: This was a decision that was
7 made last year and is now being implemented for this
8 round of annual reports. It was determined that
9 availability of documents filed with the Commission
10 needed to be looked at again. One of our former
11 Commissioners, Mr. Lieberman, brought this up.

12 And so the parties routinely have
13 asked for five years. Our statute -- our actual
14 default is two years. And so without any
15 justification on why it needed to be five years, we
16 have brought it down to two years, and they are
17 notified at the expiration of that two years so if
18 they feel a need to, they can come in and ask for
19 additional protection.

20 But none of the companies were
21 justifying why it needed to be five years. And so
22 they have that option if they want to try to justify

1 the five years as opposed to the default two years,
2 and it is a matter of trying to -- some attempt to
3 limit what people routinely slapped a confidential
4 word on.

5 CHAIRMAN FLORES: Okay, very good.

6 JUDGE WALLACE: Parties left to their own
7 devices will slap confidential on practically
8 everything. So we are trying to bring that down a
9 little bit.

10 CHAIRMAN FLORES: Very well. Has it been
11 successful?

12 JUDGE WALLACE: A little bit maybe, I think.

13 CHAIRMAN FLORES: You have to keep pushing
14 that.

15 JUDGE WALLACE: Yeah.

16 CHAIRMAN FLORES: Any further discussion or
17 questions? Any objections to the Order? Hearing
18 none, the Orders are entered.

19 T-20 is docket -- I have here and
20 someone correct me if I am incorrect here, but I have
21 T-20 is 10-0048.

22 COMMISSIONER FORD: Correct.

1 CHAIRMAN FLORES: I thought so, but I just
2 wanted to make sure.

3 WideOpenWest Illinois, LLC, had
4 petitioned to provide cable service pursuant to
5 Section 401 of the cable and competition law of 2007.
6 The applicant has since moved to withdraw the
7 application. Administrative Law Judge Riley
8 recommends granting the motion without prejudice.

9 Is there any discussion? Any
10 objections? Hearing none, the Motion to Withdraw is
11 granted.

12 Item T-21 is Docket 10-0066. ACN
13 Communications Services Incorporated has petitioned
14 for confidential and proprietary treatment for a
15 portion of its 2009 annual report for two years.
16 Administrative Law Judge Haynes recommends entering
17 the Order granting the request.

18 So this is one of those cases that you
19 were telling us. So, Judge Wallace, tell us a little
20 bit more about this case.

21 I want to know. When we are talking
22 about confidentiality, what can you tell me about

1 what was confidential about this?

2 JUDGE WALLACE: The CLECs claim that their
3 annual reports contain financial information that if
4 their competition were allowed to see, it would put
5 them at a competitive disadvantage. So what they are
6 requesting to be held confidential is essentially
7 their financial numbers for the past year that we,
8 the Commission, require them to put in their annual
9 report.

10 I have to say it is not something --
11 we don't normally question, if they say the numbers
12 are confidential. The one step we have made is to
13 bring it down from five years to two years. The
14 numbers themselves we do not inquire too much
15 further, if they claim those numbers are
16 confidential. As I said, they have generally made
17 the claim that if their competitors know these
18 numbers, then it would put them at a competitive
19 disadvantage. That's somewhat hard to prove or
20 disprove.

21 CHAIRMAN FLORES: So how do we guard against in
22 a hypothetical, just guard against, let's say, this

1 concern that you just expressed with regards to the
2 overuse of the confidentiality of protection over
3 information that you believe we need?

4 JUDGE WALLACE: Well, I would distinguish,
5 these are about as routine a matters as we get. They
6 come in every year, and we have not really had a
7 problem with them over the years. It is more with
8 the other, the non-routine documents. The ARES and
9 the AGS file a number of things they want kept
10 confidential. Again, everything is because their
11 competitors might learn something.

12 That, I think, proves to be a
13 difficult thing to prove or disprove. Will your
14 competitor use that to your disadvantage, I really
15 can't say. We do challenge -- you know, we do
16 challenge them to at least put forth a reason, an
17 explanation, of why they want something kept
18 confidential.

19 CHAIRMAN FLORES: Is there any requirement for
20 -- and I can --

21 JUDGE WALLACE: Some of this stems from the
22 Freedom of Information Act which has a section which

1 specifically allows state agencies to keep material
2 filed with them confidential or grant it a
3 proprietary status.

4 We have looked into this. We have --

5 CHAIRMAN FLORES: What would be the penalty?
6 What would be the penalty for a company that tries to
7 invoke confidentiality where, indeed, it is to be
8 discovered that it is not confidential?

9 JUDGE WALLACE: That would depend on the
10 situation. There would generally be no penalty. If
11 it comes up in the context of a case, I suppose --
12 well, I can't think of a situation where there would
13 be an actual penalty against the company that claimed
14 confidential status when there actually wasn't one.

15 I think that we, the ALJs, or the
16 Commission, would have made a determination on
17 whether it was confidential or not, and we would go
18 from there. If we make a wrong ruling, there would
19 be no --

20 CHAIRMAN FLORES: I understand.

21 COMMISSIONER O'CONNELL-DIAZ: If I might
22 interject, with regard to whether something is

1 determined to be confidential, the burden of proof is
2 on the party that is seeking confidential treatment.
3 And in the context of a rate case or some other type
4 of a proceeding, the company would need to come
5 forward to prove that that confidentiality should be
6 afforded the document that they are seeking it for.

7 Usually what happens is you have the
8 party that wants that information, you have an
9 opportunity to object and then the ALJ will make the
10 ruling based on whether it is commercially sensitive,
11 whether it is protected under Freedom of Information
12 Act. And so there is a -- there is no rubber stamp
13 that the Commission gives to confidential
14 information, but instead it goes through that
15 winnowing process and the burden of proof is on the
16 party that is seeking that confidential treatment.

17 And to the issue of the penalty, there
18 is no penalty. What would be determined is that it
19 would not be treated confidentially and it would be
20 out in the public. Other than that it is yielded.

21 And that can have an impact. Some of
22 the information that's contained in many of the

1 documents that go through the Commission not so much
2 focus on the company but the effect that it has on
3 the price that they are going to charge the customers
4 at the end. Because if they have commercially
5 sensitive information contained in their -- whatever
6 their filing is, it could have an irreparable damage
7 to consumers because it would move up the price for
8 whatever that is.

9 So these are kind of rudimentary with
10 regard to what is contained in this petition, but the
11 ALJs have a very good handle on dealing with those in
12 the context of a case. And any party is allowed to
13 object to that and present information and their
14 position relative to whether it should be labeled
15 confidential or not.

16 CHAIRMAN FLORES: Thank you, Commissioners.

17 JUDGE WALLACE: The bad thing is, we at the
18 Commission are subject to sanctions if we let
19 something out that's not supposed to be.

20 CHAIRMAN FLORES: Right.

21 COMMISSIONER O'CONNELL-DIAZ: I think we had an
22 instance in an oral argument that there was some

1 confidential information that appeared in some oral
2 argument documents. And so it is really important
3 that once that labeling is afforded, that it be
4 protected.

5 CHAIRMAN FLORES: Very well. Thank you very
6 much for the discussion and explanation.

7 Is there any further discussion? Any
8 objections? Hearing none, the Order is entered.

9 That concludes the Telecommunications
10 portion of the agenda.

11 Moving on to --

12 COMMISSIONER ELLIOTT: I have one more item.

13 CHAIRMAN FLORES: I am sorry, I misspoke. T-22
14 is Docket 09-0581. This is an amendment to an
15 interconnection agreement. Administrative Law Judge
16 Benn recommends entering the Order approving the
17 amendment to the agreement.

18 Is there any discussion? Any
19 objections? Hearing none, the Order is entered.

20 Now that concludes our
21 Telecommunications portion of the agenda.

22 Water and Waste Water, Item 1 or,

1 excuse me, Item W-1 (WRM#002) is a filing by the
2 Illinois-American Water Company to establish public
3 fire protection rates for the Village of Bondville.
4 Staff recommends not suspending the filing.

5 Is there any discussion? Any
6 objections? Hearing none, the filing is not
7 suspended.

8 Item W-2 is Docket 09-0367. James R.
9 Plucinsky filed a complaint against Aqua Illinois
10 Incorporated. The parties have settled and filed a
11 joint stipulation. Administrative Law Judge Riley
12 recommends dismissing the complaint with prejudice.

13 Is there any discussion? Any
14 objections? Hearing none, the complaint is dismissed
15 with prejudice.

16 Item W-3 is Docket 09-0548. This is a
17 Resuspension Order in the Apple Canyon Utility
18 Company rate case. The Commission has not completed
19 its inquiry and needs to enter a Resuspension Order.

20 Is there any discussion? Any
21 objections? Hearing none, the Resuspension Order is
22 entered.

1 Item W-4 is Docket 09-0549. This is a
2 Resuspension Order in the Lake Wildwood Utilities
3 Corporation rate case. The Commission has not
4 completed its inquiry and needs to enter a
5 Resuspension Order.

6 Is there any discussion? Any
7 objections? Hearing none, the Resuspension Order is
8 entered.

9 That concludes the Water and Waste
10 Water portion of today's agenday.

11 Miscellaneous, there is a
12 miscellaneous item on today's agenda. Item M-1
13 concerns the following resolution: Whereas under
14 Section 10-101 of the Public Utilities Act any
15 Commissioner or Administrative Law Judge designated
16 by the Commission shall have the power to hold
17 investigations, inquiries and hearings concerning any
18 matters covered by the provisions of this Act or by
19 any other Act relating to public utilities subject to
20 such rules and regulations as the Commission may
21 establish; and whereas it is deemed necessary that
22 certain officers be designated to hold

1 investigations, inquiries and hearings, therefore, be
2 it resolved by the Commission that Sonya J. Teague be
3 designated as an Administrative Law Judge to hold
4 investigations, inquiries and hearings with reference
5 to such matters covered by the provisions of the
6 Public Utilities Act and the provisions of any other
7 acts relating to public utilities as may from time to
8 time be assigned to her by the Chief Administrative
9 Law Judge.

10 As you may know, Ms. Teague has served
11 for several years as Commissioner Ford's assistant.
12 I am going to yield my time at this time to our
13 distinguished colleague, Commissioner Ford, who I
14 know has many nice things to say concerning this
15 wonderful appointment.

16 COMMISSIONER FORD: Thank you, Chairman. I
17 certainly have enjoyed the number of years Sonya has
18 been with me. She has been very thorough, and I am
19 saddened to see her go over to Glen and his bunch.
20 But I know she will do well for our Commission as a
21 whole and she will be very persnickety with her
22 inquiries and investigations. So I want everybody to

1 look out for her. She will do an extremely fine job,
2 and she will be missed because she has done a
3 Herculean task for me and for the other Commissioners
4 that we serve, and she has a very genteel spirit.

5 So thank you and I know they will
6 welcome you over there. I saw all the parties they
7 have.

8 CHAIRMAN FLORES: Commissioner O'Connell-Diaz,
9 would you like to say something?

10 COMMISSIONER O'CONNELL-DIAZ: Well, I am just
11 so glad to see Sonya advancing. She came to the
12 Commission from private practice and has learned our
13 nasty ways and now she is going to go over to the
14 other side and doing a whole tour of duty. So having
15 come from the ALJ section, I am really excited to
16 have someone of her caliber that will be presenting
17 orders to us and also representing the Commission in
18 the cases that we have the great task of insuring the
19 balance that's needed, and really they are kind of
20 the front lines of the Commission for us. So to have
21 someone of Sonya's compassion, intelligence and
22 diligence will be a really good thing for all of us.

1 And the good thing is she is not going
2 far away, so we will still see her so we don't have
3 to say good-bye. But I just want to ask her if we
4 have to call her Judge Judy now. She is too nice for
5 that. I wish her well.

6 CHAIRMAN FLORES: Commissioner Elliott?

7 COMMISSIONER ELLIOTT: No, it is always nice to
8 see a Commissioner assistant move on to bigger and
9 better things. So congratulations and welcome.

10 CHAIRMAN FLORES: Commissioner Colgan?

11 COMMISSIONER COLGAN: Well, I just echo some
12 comments that other colleagues have made for you,
13 Sonya, and I wish you the best and thank you for all
14 your help that you have given me and the Commission
15 and the service that you have given to the
16 Commission.

17 MS. TEAGUE: Thank you.

18 CHAIRMAN FLORES: I have not -- I am the newest
19 member here to the group, but in the short time that
20 I have worked with you, you have been very generous
21 with your insights and have been very helpful, and I
22 certainly appreciate that and I am very certain and

1 confident that you are going to do an outstanding job
2 in your new position.

3 And I also believe it is worth noting
4 here that it also speaks to the quality of the Staff
5 that we have here at the ICC. To see one of our very
6 own move forward in her career now as an
7 Administrative Law Judge, I think, speaks very
8 positively about the caliber of work, the dedication,
9 that all ICC Staff, you know, put forth. And, you
10 know, we are all very grateful. And so we know that
11 you will do very well in this next endeavor.

12 MS. TEAGUE: Thank you.

13 CHAIRMAN FLORES: So is there any further
14 discussion?

15 COMMISSIONER O'CONNELL-DIAZ: Just that we all
16 have to promise to be nice to her when she is sitting
17 there answering questions.

18 COMMISSIONER FORD: I won't make that promise.

19 CHAIRMAN FLORES: She will -- you know, we are
20 all very cordial. We are cordial to all the others,
21 so.

22 COMMISSIONER O'CONNELL-DIAZ: Buckle up.

1 CHAIRMAN FLORES: Very well. Commissioner
2 Ford, would you like to make the motion, please,
3 here?

4 COMMISSIONER FORD: So moved.

5 CHAIRMAN FLORES: Very well. Is there a second
6 then on that motion, Commissioner O'Connell-Diaz?

7 COMMISSIONER O'CONNELL-DIAZ: Second, gladly.

8 CHAIRMAN FLORES: Very well. It's been moved
9 and seconded. All in favor say aye.

10 COMMISSIONERS: Aye.

11 CHAIRMAN FLORES: There are no nays. That's
12 impressive. Five to zero, that's a very good vote
13 there that you just picked up, Sonya. So the vote is
14 five to zero; the resolution is unanimously adopted.
15 Again, thank you so much for your work and we look
16 forward to greater things from you.

17 So moving on, we are now at a petition
18 for rehearing. We have one petition for rehearing in
19 Docket 09-0384. This concerns a new rule governing
20 the procedure for establishment of credit billing,
21 deposits, termination of service and issuance of
22 telephone directories for local exchange

1 telecommunications carriers. This rule was adopted
2 by the Commission on February 10, 2010. One party
3 requested intervention and rehearing after the
4 Commission had already initiated the Second Notice
5 period, after which the Commission could no longer
6 change the rule. The Administrative Law Judge
7 recommends denying the petition for rehearing.

8 Is there any discussion? No
9 discussion. Is there a motion to deny the
10 application for rehearing?

11 COMMISSIONER ELLIOTT: So moved.

12 CHAIRMAN FLORES: Is there a second?

13 COMMISSIONER FORD: Second.

14 CHAIRMAN FLORES: It's been moved and seconded.
15 All in favor say aye.

16 COMMISSIONERS: Aye.

17 CHAIRMAN FLORES: Any opposed? No opposition.
18 The vote is 5-0; the application for rehearing is
19 denied.

20 Turning to other matters, Liberty
21 Consulting has issued its fourth quarter report on
22 Peoples Gas Pipeline Safety Program. Staff is here

1 to discuss the report. I have here Mr. Roy Buxton.
2 Mr. Buxton?

3 JUDGE WALLACE: Darin Burk.

4 CHAIRMAN FLORES: Darin Burk. I don't know why
5 we have Roy Buxton.

6 MR. BURK: Good morning.

7 CHAIRMAN FLORES: Good morning. Could you
8 please identify yourself for the record?

9 COMMISSIONER O'CONNELL-DIAZ: Before we get
10 going, is this something that is confidential? Do we
11 have to go into closed session?

12 CHAIRMAN FLORES: No, this is not. But thank
13 you for --

14 COMMISSIONER O'CONNELL-DIAZ: Just want to make
15 sure, after our lengthy discussion about
16 confidentiality.

17 CHAIRMAN FLORES: I was just thinking of that.
18 So thank you.

19 MR. BURK: I am Darin Burk, the Manager of the
20 Pipeline Safety Section of the Illinois Commerce
21 Commission.

22 CHAIRMAN FLORES: Very well, sir.

1 MR. BURK: This report is going to cover the
2 fourth quarter which is September through November of
3 2009 which puts us at the half way point in the
4 follow-up verification process for Liberty
5 Consulting. To this point Liberty has verified that
6 Peoples Gas has completed 20 of the recommendations
7 that were provided by Liberty Consulting. As you may
8 recall, there were a total of 66 recommendations.
9 Liberty has checked progress towards implementation
10 of 56. Some of the recommendations have been kept
11 open for further follow-up. Peoples Gas fell behind
12 a bit on their implementation and it threw off the
13 follow-up schedule somewhat.

14 Liberty has determined an unacceptable
15 progress towards four recommendations, the first
16 being the Recommendation II-3, cast iron replacement
17 policies. Peoples Gas has significantly reduced the
18 number of miles being replaced in the city of Chicago
19 in 2009. Rather than the average of 45 miles, they
20 have reduced that to 17 for the calendar year.

21 Recommendation II-9, develop and
22 implement training for the City of Chicago municipal

1 workers and contractors relating to damage
2 prevention. There has been very little response by
3 the City and the excavators to offers of training,
4 and Liberty feels that until enforcement of damage
5 prevention laws is enacted in the city, very little
6 improvement is anticipated.

7 COMMISSIONER FORD: Mr. Burk?

8 MR. BURK: Yes.

9 COMMISSIONER FORD: Why would that onus fall on
10 the Peoples instead of the City?

11 MR. BURK: Pardon me?

12 COMMISSIONER FORD: Why would Peoples be
13 responsible instead of the City when the City is not
14 cooperating?

15 MR. BURK: Well, to complete the implementation
16 of it is to provide the education. So far they have
17 provided opportunity but haven't conducted the
18 training. And Liberty is requesting that Peoples
19 re-emphasize the need with the City of Chicago and
20 request that the excavators in the city attend the
21 training. This is going to require some more
22 follow-up on the part of Liberty to determine what

1 Peoples has done since the fourth quarter.

2 COMMISSIONER O'CONNELL-DIAZ: So this is an
3 issue with the City not doing what they need to do to
4 insure a safer system for their citizens, is that
5 correct?

6 MR. BURK: That would summarize it, yes.

7 COMMISSIONER O'CONNELL-DIAZ: So they need to
8 have the egg on their face as opposed to the company
9 in this instance, wouldn't you say?

10 MR. BURK: Yes, I would.

11 COMMISSIONER O'CONNELL--DIAZ: Thank you.

12 COMMISSIONER FORD: Very well stated.

13 CHAIRMAN FLORES: Well, it depends on what kind
14 of eggs we are talking about. Scrambled or --

15 COMMISSIONER O'CONNELL-DIAZ: Scrambled, maybe
16 raw, I don't know. But, I mean, this is a safety
17 issue and this is an old story and the City needs to
18 step up to the plate and be a part of the solution as
19 opposed to this situation that we find ourselves in.

20 CHAIRMAN FLORES: I agree.

21 COMMISSIONER O'CONNELL-DIAZ: It is not the
22 first time. We had the meter reading situation a

1 couple of years ago where we couldn't get in.

2 COMMISSIONER FORD: And I think, Mr. Chairman,
3 you are the vehicle to make this happen, very young.

4 COMMISSIONER O'CONNELL-DIAZ: Get your chef's
5 hat on.

6 CHAIRMAN FLORES: That's what I asked there.
7 Kind of whatever are we going to cook up. So let's
8 continue.

9 MR. BURK: Recommendation II-15, develop a
10 system for tracking performance metrics for damage
11 prevention. Peoples Gas has submitted a tracking
12 metrics to the Pipeline Safety Section in January of
13 2010. So that took place after this report was
14 submitted. I have reviewed the metrics. I have
15 approved it, and so that should resolve this issue.
16 Peoples has done a very good job of developing the
17 metrics in this situation.

18 Recommendation V-8, improve the
19 Quality Assurance Quality Control Program. The QAQC
20 as they call it is to review crew performance in the
21 field. Liberty found that they were providing the
22 crews with advanced warning of an inspection which

1 they deemed to be ineffective, and I tend to agree
2 with that. Individuals lack credentials to perform
3 the assessments, and the findings indicated that the
4 inspections lack emphasis on pipeline safety code
5 related matters and focused more on occupational
6 safety related issues.

7 I have discussed this issue with the
8 Vice President of Operations at Peoples Gas. They
9 are working to provide more training for their
10 quality assessment department so that they can do
11 more comprehensive inspections. Once that training
12 is completed, that should resolve that issue.

13 COMMISSIONER O'CONNELL-DIAZ: What's the
14 timeline for that, Mr. Burk, do you know?

15 MR. BURK: They have two phases. They are
16 doing some overview initial training that would make
17 them at least competent to review the work throughout
18 this year, to be completed, I believe, by the end of
19 2010. And then they are going to be taking all of
20 the inspectors through a full operator qualification
21 program, like their hourly person will go through,
22 and that is to be completed by the end of 2011.

1 COMMISSIONER O'CONNELL-DIAZ: Thank you.

2 MR. BURK: Liberty has not determined progress
3 toward ten of the recommendations, and they are going
4 to be working on that in this and the next quarter.

5 I did discuss some of the issues with
6 Mr. Dirk and I was concerned whether or not they were
7 going to be able to complete the work in this
8 calendar year as the contract indicates. To address
9 that, Mr. Dirk has basically guaranteed me that they
10 will have these recommendations fully implemented by
11 the end of 2010. And Peoples has begun a process of
12 proactive data requests, I guess you could say.
13 Rather than waiting for Liberty to ask for their
14 progress on certain recommendations, Peoples is just
15 providing them with that information so they can work
16 on it as they see fit.

17 Peoples acknowledges that they are
18 deficient in some areas, and Mr. Dirk has committed
19 that they will put the necessary resources into place
20 to complete this program.

21 And that concludes my update. Do you
22 have any questions for me at this time?

1 COMMISSIONER COLGAN: In terms of cast iron
2 replacement, what did you say how far they had fallen
3 off?

4 MR. BURK: Normally they average approximately
5 45 miles per year. In 2009 they did 17 miles and I
6 understand that in 2010 they plan on doing about ten
7 miles. So they have dropped significantly.

8 CHAIRMAN FLORES: What's the reason for the
9 drop?

10 MR. BURK: They say it is the economy,
11 financing.

12 COMMISSIONER ELLIOTT: That was an issue in the
13 recent Peoples Gas case.

14 CHAIRMAN FLORES: The other issue that you
15 brought up, Mr. Burk, in terms of the cooperation
16 between the City and the company, has the ICC reached
17 out to the City of Chicago to engage in some
18 discussions in terms of how there could be some
19 better coordination?

20 MR. BURK: I am a member of the Greater Chicago
21 Damage Prevention Council and I have spoken with the
22 City at those meetings through the different

1 departments, water, streets, and through the manager
2 of the bigger program in Chicago. And I have
3 emphasized the need for this on many occasions.

4 Now that we are gaining the metrics,
5 the damages from -- obtaining those from Peoples Gas,
6 I plan on talking to or at least mentioning these the
7 next time I attend a meeting and tell them that we
8 definitely find it unacceptable the number of damages
9 that the City of Chicago inflicts on the Peoples Gas
10 system on an annual basis.

11 CHAIRMAN FLORES: Have we -- beyond these face
12 to face interactions, have we written a formal
13 correspondence?

14 MR. BURK: No, we have not. It is not
15 something we have ever done in the past.

16 CHAIRMAN FLORES: I think we should write one.
17 We should prepare one to -- and I think the calling
18 for an official convening of some of their personnel
19 and our Staff to develop some framework or at least a
20 formalized understanding so that everyone is on the
21 same page. Any discussion?

22 COMMISSIONER FORD: My only suggestion would be

1 that possibly the president of Peoples Gas, possibly
2 yourself, meet with the mayor and discuss this with
3 him and his department heads, and then we will get
4 some action.

5 CHAIRMAN FLORES: You know, the economy has
6 affected -- has had obviously an impact on a lot of
7 different stakeholders. And speaking as a former
8 council member from the City of Chicago, it has
9 obviously taken its toll on not just the City but on
10 many other municipalities, as you know, with manpower
11 and being able to juggle a whole bunch of different
12 policies at the same time and being able to shift
13 personnel properly.

14 But I think given the need to address
15 the safety, the need to insure that these benchmarks
16 are met, that there be some official communications
17 so that everyone is on notice that we have to move
18 forward and that we can't afford to delay this
19 process.

20 COMMISSIONER FORD: That's correct. And I
21 think that that will get the attention of everyone
22 involved. Because, you know, I know that they will

1 listen to him.

2 COMMISSIONER O'CONNELL-DIAZ: Yeah, I mean, we
3 had an issue years ago with the City with regard to
4 with Peoples inside meter readings. It was a huge
5 problem. And the Mayor, we got involved with the
6 Mayor and then things changed. So I think that
7 Commissioner Ford's suggestion is a good one.

8 And this is a critical safety issue,
9 and just we need to bring it to the door that can
10 effectuate change. And I think what she has proposed
11 is a good idea.

12 CHAIRMAN FLORES: Very well. So let's get a
13 letter. Let's develop a letter and I would like for
14 all of us to see the contents of the letter, though,
15 before it is submitted so that all of the
16 Commissioners have input in the contents of that
17 letter.

18 MR. BURK: I will be happy to do that.

19 CHAIRMAN FLORES: You know, we also want to
20 include not only Mayor Daley and his department heads
21 but also Chairwoman Rugay who chairs the Committee on
22 Energy Environment and Public Utilities. And she

1 will also want to be informed of this activity.

2 MR. BURK: I will take care of it. Anything
3 further?

4 CHAIRMAN FLORES: You know, I recognize that
5 there are challenges right now with the economy, but
6 we have to do everything in our power to insure that
7 there is progress being made. And speaking just as
8 myself here, and I am going to elicit and ask the
9 other Commissioners if they have any comments, but
10 going down from 45 miles to 17 miles is a real
11 problem. And then the projection that we are going
12 to go down to ten is even a bigger problem. So and
13 that's just one.

14 The tracking performance, the matrix
15 and these other issues, you know, you started out by
16 saying that there were 66 recommendations.

17 MR. BURK: Yes.

18 CHAIRMAN FLORES: Only 20 have been met?

19 MR. BURK: Only 20 have been confirmed.

20 CHAIRMAN FLORES: Well, in my view that's only
21 20 met. So only -- you are talking about one-third,
22 actually less than one-third.

1 MR. BURK: Yes.

2 CHAIRMAN FLORES: That's unacceptable.

3 MR. BURK: And I have been pushing.

4 CHAIRMAN FLORES: That's unacceptable with a
5 triple exclamation point, triple underlined. So what
6 are we going to do to expedite and to get some
7 more -- to get some alacrity behind the process?

8 MR. BURK: Well, I have met with, as I said,
9 the Vice President of Operations. John Stutsman and
10 I had a discussion with Liberty, Bob Stright of
11 Liberty, and we expressed our concerns about the
12 progress and they have assured us that they will step
13 it up.

14 CHAIRMAN FLORES: I would like to entertain a
15 motion here to have them come before the Commission
16 and to personally answer to why is it that we are
17 behind the ball here.

18 MR. BURK: Are you referring to Peoples Gas?

19 CHAIRMAN FLORES: Yes, and also the auditor
20 because the auditor also has to be put on notice
21 that, you know, they are there to audit and to make
22 sure that there is progress and they are also being

1 paid to make sure that progress is being effectuated.
2 I would like to hear, though, from the other
3 Commissioners.

4 COMMISSIONER COLGAN: Well, I have a question.
5 As to the auditor, I mean I am sure that they are
6 operating -- I have not been along for the history of
7 this -- but I am pretty sure that there wouldn't be
8 the auditor in place if there hadn't been an order
9 issued by this Commission to have the auditor in
10 place. And I am wondering that if in that order
11 there were also some remedies that were recommended,
12 other than talking nice and writing letters.

13 I mean, is there any remedies for us
14 to look to in terms of more seriously encouraging
15 them to step up on the matter?

16 COMMISSIONER FORD: Mr. Chairman?

17 CHAIRMAN FLORES: Yes, ma'am.

18 COMMISSIONER FORD: I will certainly take this
19 under advisement as Chair of the Gas Committee and I
20 sit on the National Pipeline Safety Committee, and I
21 will consult with Mr. Burk and get back to you on
22 that issue, if you don't mind. Let me take a look.

1 CHAIRMAN FLORES: Very well, Madam Chair.

2 COMMISSIONER ELLIOTT: It might be worthwhile
3 to review the initiating order behind the audit and
4 see what teeth we have in there for non-compliance.

5 COMMISSIONER O'CONNELL-DIAZ: I think there is
6 a lot of pieces to this puzzle, and I think the
7 Chairman's suggestion is a good one and that
8 Commissioner Ford really can kind of dig in there and
9 figure out how we can tee this up to look at it and
10 actually have the clear picture in front of us. I
11 mean, I am at a disadvantage, not having all the
12 documents that I would need to look at right now to
13 determine how we would like to dig down into this and
14 have a public discussion about it which I think will
15 be really helpful.

16 You know, we did this with Ameren with
17 the vegetation management. I don't see any reason
18 why we wouldn't be similarly situated to do this
19 again under the auspices of Commissioner Ford as
20 Chairman of the Gas Policy.

21 CHAIRMAN FLORES: Commissioner Ford, then we
22 will -- I will table the motion.

1 COMMISSIONER FORD: Thank you.

2 CHAIRMAN FLORES: Pending your advice to the
3 rest of us, and just keep us informed.

4 COMMISSIONER FORD: I certainly will.

5 CHAIRMAN FLORES: I would just ask, though,
6 that we, you know, that we take a look at some action
7 within a month or so.

8 COMMISSIONER FORD: Thank you.

9 CHAIRMAN FLORES: Thank you. Very well. Any
10 other questions of Mr. Burk or discussion? Very
11 well. Okay.

12 Then I guess my question is that or
13 what I would like to do then is we still have to
14 determine whether or not we will accept the Liberty
15 report and place it on the website or if we wish to
16 also table this motion until -- this matter, until we
17 get some more resolution, given the discussion.

18 Now, they maybe, you know, would you
19 like some discussion on the matter, Commissioner?

20 COMMISSIONER ELLIOTT: I don't see any
21 particular reason why we wouldn't want to go ahead
22 and post this and get it out for public review.

1 COMMISSIONER O'CONNELL-DIAZ: I agree. The
2 report is the report, so.

3 COMMISSIONER FORD: Put it out there.

4 COMMISSIONER O'CONNELL-DIAZ: Put it out there.

5 CHAIRMAN FLORES: Just want to make sure
6 everyone is on the same page.

7 COMMISSIONER O'CONNELL-DIAZ: Thank you.

8 CHAIRMAN FLORES: So is there a motion to
9 accept the Liberty report and to place it on the
10 website?

11 COMMISSIONER ELLIOTT: So move.

12 CHAIRMAN FLORES: Is there a second?

13 COMMISSIONER COLGAN: Second.

14 CHAIRMAN FLORES: Very well. It's been moved
15 and seconded. All in favor say aye.

16 COMMISSIONERS: Aye.

17 CHAIRMAN FLORES: Any opposed?

18 The vote is 5-0; the report is
19 accepted and will be posted on the website.

20 We have one FERC matter on the agenda,
21 one item on the agenda, FERC item on the agenda, PJM
22 Interconnection, LLC, FERC Docket EL05-121-006. We

1 must go into closed session at this time to discuss
2 this item.

3 Is there a motion to go into closed
4 session?

5 COMMISSIONER ELLIOTT: So move.

6 CHAIRMAN FLORES: Is there a second?

7 COMMISSIONER COLGAN: Second.

8 CHAIRMAN FLORES: All in favor say aye.

9 COMMISSIONERS: Aye.

10 CHAIRMAN FLORES: The vote is 5-0. The
11 Commission will now go into closed session. Please
12 let me know when the room is ready in Chicago.

13 COMMISSIONER O'CONNELL-DIAZ: We are ready,
14 Chairman.

15 MR. RISMILLER: Springfield is clear.

16 (Whereupon at this point
17 pages 45 - 51 of the
18 proceedings are contained
19 in a separate closed
20 transcript.)

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CONTINUATION OF PROCEEDINGS

CHAIRMAN FLORES: Please let me know when the room is ready in Springfield. If someone can find Mr. Harris, please, Louis Harris.

MR. RISMILLER: The door is open in the Springfield hearing room.

COMMISSIONER O'CONNELL-DIAZ: The door is open here, Chicago.

CHAIRMAN FLORES: Very well. We are still waiting for --

COMMISSIONER ELLIOTT: Do we need to bring any additional chairs into the --

CHAIRMAN FLORES: Mr. Harris, please. All right. So very well. We are back into open session. In closed session the Commission discussed PJM Interconnection, LLC, FERC Docket EL05-121-006. No action is necessary at this time.

Judge Wallace, is there any other business? Are there any other business matters to come before this Commission here today?

JUDGE WALLACE: No. I just need to go assign a lot of cases to Judge Teague now.

1 CHAIRMAN FLORES: Well, be nice to her. Be
2 nice to her.

3 There is one other matter that I would
4 like to comment on here. We have two individuals who
5 have been part of our family who I think -- who I
6 believe deserve a ton of -- a lot of recognition here
7 in this session, two individuals that I have gotten
8 to know personally in the last month or so, and two
9 individuals that I know all of you have had the
10 luxury to know longer and to have worked with them.
11 Very well respected professionals and also folks who
12 have in my view contributed immensely to the ICC, and
13 that's Ms. Tiffany Ingram who is joining us here.

14 Hi, Tiffany, how are you?

15 MS. INGRAM: Good.

16 CHAIRMAN FLORES: And also Mr. Louis Harris who
17 have been my two assistants. And I just wanted to
18 say a thank you for helping me make the transition
19 here and also for your contributions to the ICC. And
20 I know that there are several other Commissioners
21 that would like to also say a few words. I am going
22 to begin with Commissioner Ford in Chicago.

1 Commissioner?

2 COMMISSIONER FORD: Thank you. It has
3 certainly been a joy and a pleasure to work with both
4 Tiffany and Louis. They have certainly been a part
5 of the family of the Commission, and as being
6 assistants to the Chair, they have certainly played a
7 crucial part in our day-to-day organization. So I
8 wish them well in their future endeavors and may the
9 peace of the Lord be with you.

10 CHAIRMAN FLORES: Very well. Commissioner
11 O'Connell-Diaz?

12 COMMISSIONER O'CONNELL-DIAZ: Well, I just
13 would like to thank Louis and Tiffany. We worked --
14 we didn't know each other a couple of years ago but
15 we got to know each other. I know they worked very
16 diligently with Chairman Box and also with all the
17 other Commissioners on really important matters that
18 meant a lot to the Commission and certainly to the
19 State of Illinois and they really measured up to the
20 bar and just got down and did some really tough work.

21 And I just know that when they leave
22 here and go out, they are going to be really

1 successful, and that always makes me feel great, when
2 I see some of our folks go out and especially in an
3 era that energy is like a really cool thing to be in
4 and I have no doubt that we will be seeing them
5 again.

6 So it is not good-bye; it is just that
7 they will be wearing different hats, I am sure, and I
8 wish them the best success and I know that we will
9 miss them but we look forward to seeing you in other
10 walks.

11 CHAIRMAN FLORES: Commissioner Elliott?

12 COMMISSIONER ELLIOTT: Yeah, I echo the
13 comments that have already been made. I know Tiffany
14 and Louis have helped me and Alicia in our office a
15 great deal over the period of time that I have been
16 here and I have relied on their expertise and used
17 them as a sounding board for my perspectives on many
18 of these cases and I thank them for their efforts
19 with the Chairman and just the dialog that we have
20 had that I know has helped shaped my opinions and
21 made them that much better.

22 And, again, continued success, and if

1 there is anything that I can do personally to move
2 that along, feel free to avail yourselves of that
3 offer.

4 CHAIRMAN FLORES: Commissioner Colgan?

5 COMMISSIONER COLGAN: Ditto to all of those
6 comments. And just personally, I know, Louis, my
7 very first day on the job, you came to me and said if
8 I needed anything, and I have taken advantage of that
9 on numerous occasions. And, Tiffany, you have also
10 been very generous and kind to me in helping me out
11 with anything that I have needed as a new
12 Commissioner that doesn't have assistance, and I just
13 really appreciate that a lot.

14 I think both of you are very talented,
15 skilled people who have very bright futures in front
16 of you, and I wish you all the very best. So peace
17 to both of you and good luck in your future
18 endeavors. And like Commissioner Elliott said, if
19 there is anything I can ever do to help either of
20 you, don't hesitate to contact me.

21 CHAIRMAN FLORES: I would like to hear from our
22 Director, Mr. Anderson.

1 MR. ANDERSON: Well, I am at a total
2 disadvantage after everybody has said so many things,
3 but it's always been very helpful to us having people
4 like Tiffany and Louis to help walk that bridge from
5 Staff over to the Chairman and Commissioners, and
6 they have both been great and we have always had a
7 very good line of communication open, and that's
8 always been helpful and appreciated. So thank you
9 and good luck to both of you.

10 CHAIRMAN FLORES: And I would like to also
11 extend some time to both Tiffany and Louis. Tiffany,
12 would you like to say anything here?

13 MS. INGRAM: Sure. Transitions are always
14 difficult things, but I just want to really thank
15 everyone for their patience with me, you know, and
16 their time. It's a special thing when you can say I
17 enjoy coming to work, and its because of the people
18 that are here. They are very hard working. They are
19 very free with their expertise. You know, no one
20 keeps it closed close to the chest.

21 So it is very hard to leave, but I
22 hope to see you all at some point down the road. And

1 just once again, thanks for your patience with me and
2 thanks for helping me down this path.

3 CHAIRMAN FLORES: Mr. Harris?

4 MR. HARRIS: Yeah, I want to echo everything
5 Tiffany has said. It's really been a joy working at
6 the Commission and, you know, I have a history in the
7 electric industry and it's really been wonderful
8 learning so much about the other industries and how
9 free everyone has been with information and just --
10 you know, and I echo Tiffany, it's a wonderful
11 situation when you are happy to go to work, and it is
12 hard to leave during a transition and everything.
13 But, you know, I hope that you haven't seen the last
14 of me and that, you know, I am really pleased with
15 the service I have done here and am grateful for the
16 appreciation and I know that the Commission is well
17 served to move on to bigger and greater challenges.

18 So that's all I have. I want to thank
19 Tiffany, too, by the way. It's been wonderful
20 working with you.

21 MS. INGRAM: Thank you. You are my work
22 husband.

1 CHAIRMAN FLORES: Well, again, I just wanted to
2 just acknowledge the great work that both Tiffany and
3 Louis have done and that I am also extremely
4 confident that this is not really a good-bye and that
5 we will continue to work together. So thank you so
6 much again for your service on behalf of the ICC and
7 also the people of the State of Illinois.

8 So there are no other matters; at this
9 time then I would like to adjourn the meeting. Thank
10 you, all.

11 COMMISSION ADJOURNED

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